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May 6th, 2020

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
VIA FEDEX

RE: W254DT – Facility ID#202423 – BNPFT-20181009AAL (“Construction Permit”) – Tolling Request

Dear Ms. Dortch:

I am writing on behalf of Actualidad 990AM Licensee, LLC (“Actualidad”), the permittee of W254DT, Facility #202423, licensed to Kendall, FL, in connection with the above captioned Construction Permit which was granted on October 31, 2018, to request tolling of the CP due to an “Acts of God” as specified in 47 C.F.R. §73.3598(b)(i). As the Commission is aware, the Governor of Florida on April 1, 2020¹ ordered the closure of most businesses and commercial activity within the state in response to COVID-19. Furthermore, Miami-Dade County (where the Construction Permit is to be built), together with Broward and Palm Beach County are not subject to the State of Florida’s proposed “re-opening” economic plan and remain under local “stay-at-home” orders as well.

As a result of the foregoing issues, Actualidad has been unable to continue work on the Construction Permit since April 1, 2020 and is concerned that it will not be able to complete the work needed to commence licensed operations by the October 31, 2021 expiry date of the Construction Permit.

Pursuant to Section 73.3598 of the Rules, the Commission has established procedures for tolling, which include natural disasters and zoning/permitting issues. In addition to the express circumstances described hereinabove that would qualify the instant Construction Permit for tolling, there are a myriad number of additional issues which while not specifically articulated in the Rule, further warrant grant of this tolling request (*See 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes; Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, M,O & O, MM Docket 98-43, 14

¹ EO 20-91 Executive Order of the Governor of Florida.



FCC Rcd 17525, 17541 (1999)(“Streamlining Order”). As part of the adoption of the three-year construction period and associated tolling provisions, the Commission stated that:

“We realize that there may be rare and exceptional circumstances other than those delineated here which would warrant the tolling of construction time, i.e. circumstances in which, for reasons not discussed here, a permittee is prevented from completing construction within three years for reasons beyond its control such that the permittee would be entitled to tolling of the construction time under Section 319(b). In these very limited circumstances, we will entertain request for waiver of our strict tolling provisions.”

Streamlining Order at 17541. The Commission has waived the three-year construction period required by Section 73.3598 in acknowledgment of exceptional circumstances beyond a licensee’s control. *See Letter to Cary S. Tepper, Esq., In Re W216BI, Lexington, NC from Peter H. Doyle, Chief, Audio Division, Media Bureau, dated April 8th, 2002* permitting tolling where transmitter site was lost due to circumstances beyond permittee’s control. Both the applicable provisions of Section 73.3598 described hereinabove together with the other circumstances described which fall within the penumbras of the tolling provisions, demonstrate circumstances beyond the control of Actualidad which currently prevent completion of construction associated with the aforementioned Construction Permit.

Furthermore, 47 C.F.R. Section 1.3 permits waiver of any of the Commission’s rules upon a showing of good cause and where the waiver will serve the public interest. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) *cert. denied*, 409 U.S. 1027 (1972)). A Declaration of Actualidad’s president attesting to the foregoing is attached hereto as Exhibit “A”.

For all of the foregoing reasons, Actualidad respectfully requests the tolling of BNPFT-20181009AAL a minimum of six (6) months until such time that commercial activity including construction of W254DT can presumably resume.

Of course, Actualidad will notify the Commission as soon as conditions permit resumption of the work necessary to complete the Construction Permit.

Sincerely,



Anthony T. Lepore, Esq.

ATL:ms

Cc: Victoria McCauley, Esq. (via email)
Rodolfo Bonacci (via email)

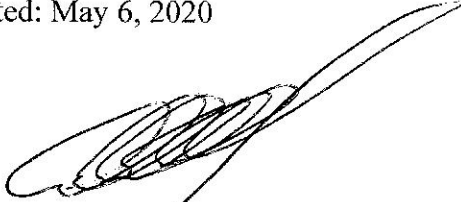


EXHIBIT "A"

DECLARATION OF ADIB EDEN

I am the President of Actualidad 990AM Licensee, LLC. I declare, under penalty of perjury, that I have reviewed the foregoing Tolling Request dated May 6th, 2020 in connection with W254DT (Facility ID#202423) and the facts stated in the Tolling Request are true and correct to the best of my knowledge.

Dated: May 6, 2020

A handwritten signature in black ink, appearing to be 'Adib Eden', written over a horizontal line.

Adib Eden, President